

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/797, 079 02/10/97 BENNETT

C AT9-97-044

EXAMINER

TM02/1010

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ART UNIT	PAPER NUMBER
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2153
DATE MAILED:

10/10/01

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)
	08/797,079	BENNETT, CRAIG ALAN
Examiner	Art Unit	
Dung Dinh	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Office Action Summary

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 13 July 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1, 3-10, 12, 14-17, 21-25, 31-39 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,3-10,12,14-17,21-25 and 31-39 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 7-13-2001 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3-5, 8-9, 12, 14-17, 21-25, 31-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kauffman et al. US patent 5,857,203 and further in view of Averbuch et al. US patent 5,689,825.

As per claim 1, Kauffman teaches a method of downloading a file, consisting of components, from a server to a client, comprising the steps of:

receiving from a server a profile [piece map] of the download file;

initiating a download sequence by which each component file is transferred and reassembling the component files into the download file using the profile [col.11 lines 14-29].

Kauffman does not specifically disclose the client and server being an Internet client and an Internet server using an Internet protocol. However, applicant defines (on page 25 of the specification) an Internet client and Internet server as any type of computers or components connected to any type of network. Hence, the client and server of Kauffman read on the Internet client, Internet server as claimed.

It would have been obvious for one of ordinary skill in the art to use Internet protocol (e.g. FTP) because it is widely available, standard reliable protocol for transferring files.

Kauffman does not specifically disclose what happened when download is interrupted. Averbuch teaches a method for transferring file sequences wherein upon interruption of the download sequence, restarting the download at the component affected by the interruption [col.6 lines 20-29]. The component transferred prior to the interruption is not re-transferred [col.6 line 29]. Hence, it would have been obvious for one of ordinary skill in the art to combine the teaching of Averbuch with the system of Kauffman because it would have improve the efficiency of the downloading.

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As per claim 3, since Kauffman's download file comprises plural component files, it is inherent that only the affected component file is restarted. It would have been obvious for one of ordinary skill in the art not to re-transmit completed component files prior to the interruption so as to conserve time and bandwidth.

As per claims 8, 12, 17, 21, 22, 24, they are rejected under similar rationales as for claim 1 above.

As per claims 4, 23, 25, it is well known in the art to use FTP for file transfer. It would have been obvious for one of ordinary skill in the art to use FTP because it is a well known protocol for transferring of file.

As per claims 5, 9, 15, Kauffman discloses the profile includes for each component file an identifier, size, and code uniquely identifying the component [see col.7 lines 60-65, col.8 lines 47-53].

As per claim 31, it is rejected under similar rationale as for claim 1 above. Kauffman does not specifically disclose the client comprises a remote control unit and a base unit (e.g. Web appliance). The downloading method would work equally well

whether the client is a computer or a Web appliance with a remote control and a base unit. Hence, using a Web appliance would have been an obvious variation from the system as modified.

As per claims 32-39, it is inherent that the system as modified would use the profile to continue the download in order to identify which component files are to be requested from the server.

Claims 6-7, 10, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kauffman et al. and Averbuch et al. and further in view of. Pyne US patent 5,446,888.

As per claims 6-7, 10, 16, Kauffman does not specifically disclose using CRC for identifying file component and verifying the component file integrity. The use of CRC to identify and verify file integrity is well known in the art. Pyne teaches a remote file transfer method using CRC to identify and check the integrity of the file [see col.7 lines 50-64]. It would have been obvious for one of ordinary skill in the art to use CRC as identifier for the component file because it would have improved the

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reliability of the system by enabling the client to identify and check the integrity of downloaded component files.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Dinh whose telephone number is (703) 305-9655. The examiner can normally be reached on Monday-Thursday from 7:00 AM - 4:30 PM. The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached at (703) 305-4792.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group 2100 Customer Service whose telephone number is (703) 306-5631.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, DC 20231

or faxed to:

(703) 746-7238, (for formal communications intended for entry)
(703) 746-7240 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).



Dung Dinh
Primary Examiner
October 5, 2001